

SENATE REVISION AMENDMENT

This amendment, adding a new section 14, together with amended section 5 will clarify the applicability of Federal criminal statutes within the Canal Zone. It was particularly desired by the Governor of the Canal Zone and the compiler of the Canal Zone Code. The Governor of the Canal Zone, in a letter dated September 22, 1945, and filed with the House Judiciary Committee, advised:

"General criminal laws of the United States are now applicable to the Canal Zone only if applicability is indicated by language expressly referring to the Canal Zone, or to possessions of the United States, or to territory subject to the jurisdiction of the United States, etc. * * * The bill in its present form would have undesirable effects insofar as concerns the continued operation of the Canal Zone Criminal Code and Code of Criminal Procedure, established by Congress as titles 5 and 6 of the Canal Zone Code, enacted by act of June 19, 1934 (ch. 667, 48 Stat. 1122), and also would perhaps have undesirable effects insofar as concerns the continued applicability to the Canal Zone of the body of general criminal laws which are now applicable."

Chapter 3.—ANIMALS, BIRDS, AND FISH

Sec.

41. Hunting, fishing, trapping; disturbance or injury on wildlife refuges.
42. Importation of injurious animals and birds; permits; specimens for museums.
43. Transportation or importation in violation of state, national, or foreign laws.
44. Marking packages or containers.
45. Capturing or killing carrier pigeons.

LEGISLATIVE HISTORY

Reviser's Note.—The criminal provisions of the Migratory Bird Treaty Act, sections 703-711 of title 16, U. S. C., 1940 ed., Conservation, and the Migratory Bird Conservation Act, sections 715-715r of title 16, U. S. C., 1940 ed., Conservation, were considered for inclusion in this chapter. Since these provisions, except parts of sections 704-707 of said title 16, are so inextricably interwoven with the Migratory Bird Acts, it was found advisable to exclude them.

§ 41. Hunting, fishing, trapping; disturbance or injury on wildlife refuges.

Whoever, except in compliance with rules and regulations promulgated by authority of law, hunts, traps, captures, willfully disturbs or kills any bird, fish, or wild animal of any kind whatever, or takes or destroys the eggs or nest of any such bird or fish, on any lands or waters which are set apart or reserved as sanctuaries, refuges or breeding grounds for such birds, fish, or animals under any law of the United States or willfully injures, molests, or destroys any property of the United States on any such lands or waters, shall be fined not more than \$500 or imprisoned not more than six months, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 686, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 145 and §§ 676, 682, 683, 685, 688, 689b, 692a, and 694a of title 16, U. S. C., 1940 ed., Conservation (Jan. 24, 1905, ch. 137, § 2, 33 Stat. 614; June 29, 1906, ch. 3593, § 2, 34 Stat. 607; Mar. 4, 1909, ch. 321, § 84, 35 Stat. 1104; Aug. 11, 1916, ch. 313, 89 Stat. 476; June 5, 1920, ch. 247, § 2, 41 Stat. 986; Apr. 15, 1924, ch. 108, 43 Stat. 98; Feb. 28, 1925, ch. 376, 43 Stat. 1091; July 3, 1926, ch. 744, § 6, 44 Stat. 821; July 3, 1926, ch. 776, § 3, 44 Stat. 889; June 28, 1930, ch. 709, § 2, 46 Stat. 828; Mar. 10, 1934, ch. 54, § 2, 48 Stat. 400; Reorg. Plan No. II, § 4 (f), 4 F. R. 2731, 53 Stat. 1433).

This revised section condenses, consolidates, and simplifies similar provisions of sections 676, 682, 683, 685, 688, 689b, 692a, and 694a of title 16, U. S. C., 1940 ed., with section 145 of title 18, U. S. C., 1940 ed., with such changes

of phraseology as make clear the intent of Congress to protect all wildlife within Federal sanctuaries, refuges, fish hatcheries, and breeding grounds. Irrelevant provisions of such sections in title 16 are to be retained in that title.

Because of the general nature of this consolidated section, no specific reference is made to rules and regulations issued by the Secretary of the Interior or any other personage, but only to rules and regulations "promulgated by authority of law".

The punishment provided by the sections consolidated varied from a fine not exceeding \$100 or imprisonment not exceeding 6 months, or both, in section 694a of title 16, U. S. C., 1940 ed., to a fine not exceeding \$1,000 or imprisonment not exceeding 1 year, or both, in sections 676, 685, and 688 of such title 16. The revised section adopts the punishment provisions of the other five sections.

The references to "misdemeanor" in sections 676, 685, 688, 689b, 692a, and 694a of title 16, U. S. C., 1940 ed., were omitted as unnecessary in view of definition of "misdemeanor" in section 1 of this title, and also to conform with policy followed by codifiers of the 1909 Criminal Code, as stated in Senate Report 10, part 1, pages 12, 13, 14, Sixtieth Congress, first session, to accompany S. 2982.

Words "upon conviction", contained in sections 676, 685, 688, 689b, 692a, and 694a of title 16, U. S. C., 1940 ed., were omitted as surplusage, because punishment can be imposed only after conviction.

Words "in any United States court of competent jurisdiction", in sections 676, 685, and 688 of title 16, U. S. C., 1940 ed., words "in any United States court", in sections 689b, 692a, and 694a of such title 16, and words "in the discretion of the court", in said sections 676, 685, 688, and 689b, were likewise omitted as surplusage.

§ 42. Importation of injurious animals and birds; permits; specimens for museums.

(a) The importation into the United States of the mongoose, the so-called "flying foxes" or fruit bats, the English sparrow, the starling, and such other birds and animals as the Secretary of the Interior may declare to be injurious to the interests of agriculture or horticulture, is prohibited; and all such birds and animals shall, upon arrival at any port of the United States, be destroyed or returned at the expense of the owner.

No person shall import into the United States any foreign wild animal or bird, except under special permit from the Secretary of the Interior.

This section shall not restrict the importation of natural-history specimens for museums or scientific collections, or of certain cage birds, such as domesticated canaries, parrots, or such other birds as the Secretary of the Interior may designate.

The Secretary of the Treasury may issue regulations to effectuate this section.

(b) Whoever violates this section shall be fined not more than \$500 or imprisoned not more than six months, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 687, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 391, 394 (Mar. 4, 1909, ch. 321, §§ 241, 244, 35 Stat. 1137, 1138; June 15, 1935, ch. 261, title II, § 201, 49 Stat. 381; Reorg. Plan No. II, § 4 (f), 4 F. R. 2731, 53 Stat. 1433).

This section consolidates the provisions of sections 391 and 394 of title 18, U. S. C., 1940 ed., as subsections (a) and (b), respectively.

In subsection (a) the words "Territory or District thereof" were omitted as unnecessary in view of the definition of the United States in section 5 of this title.

In subsection (b) the words "upon conviction thereof", were omitted as surplusage because punishment can only be imposed after conviction.

The amount of the fine was reduced from \$1,000 to \$500, thus making the violation a petty offense as defined in section 1 of this title. (See also section 41 of this title which provides a similar punishment.)

Minor verbal changes were also made.

CROSS REFERENCES

Preservation of game and wild birds; duties and powers of Secretary of the Interior; regulations as to hunting, see section 701 et seq. of Title 16, Conservation.

§ 43. Transportation or importation in violation of state, national, or foreign laws.

Whoever delivers or knowingly receives for shipment, transportation, or carriage in interstate or foreign commerce, any wild animal or bird, or the dead body or part thereof, or the egg of any such bird imported from any foreign country, or captured, killed, taken, purchased, sold, or possessed contrary to any Act of Congress, or the law of any State, Territory, Possession, or foreign country, or subdivision thereof; or

Whoever transports, brings, or conveys from any foreign country into the United States any wild animal or bird, or the dead body or part thereof, or the egg of any such bird captured, killed, taken, shipped, transported, or carried contrary to the law of such foreign country or subdivision thereof; or

Whoever knowingly purchases or receives any wild animal or bird, or the dead body or part thereof, or the egg of any such bird imported from any foreign country or shipped, transported, carried, brought, or conveyed in violation of this section; or

Whoever, having purchased or received any wild animal or bird, or the dead body or part thereof, or the egg of any such bird imported from any foreign country or shipped, transported, or carried in interstate commerce, makes any false record or account thereof; or

Whoever imports from or exports to Mexico any game mammal, dead or alive, or parts or products thereof, except under permit or authorization of the Secretary of the Interior, in accordance with regulations issued by him and approved by the President—

Shall be fined not more than \$500 or imprisoned not more than six months, or both; and the wild animals or birds, or the dead bodies or parts thereof, or the eggs of such birds, shall be forfeited. (June 25, 1948, ch. 645, § 1, 62 Stat. 687, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 704–707 of title 18 and sections 392, 393a, and 394 of title 18, U. S. C., 1940 ed. (Mar. 4, 1909, ch. 321, §§ 242, 244, 35 Stat. 1137, 1138; July 3, 1918, ch. 128, §§ 3–6, 40 Stat. 755, 756; June 15, 1935, ch. 261, title II, §§ 201, 202, 49 Stat. 380, 331; June 20, 1936, ch. 634, §§ 2, 4, 49 Stat. 1556; Reorg. Plan No. II, § 4 (f), 4 F. R. 2731, 53 Stat. 1433).

This section consolidates sections 392, 393a part, and 394 of said title 18 with parts of sections 704–707 of said title 18.

Other provisions of said section 393a of title 18, U. S. C., 1940 ed., are incorporated in sections 44, 3055 and 3112 of this title. Provisions of said section 706 of title 16, U. S. C., 1940 ed., not incorporated here, are covered either by section 3055 of this title, relating to arrests and warrants, or by the Federal Rules of Criminal Procedure, relating to warrants, searches and seizures, arraignment, etc.

The words "interstate or foreign commerce" were substituted for the enumeration of geographical subdivisions of the United States and foreign countries, in view of the definition of interstate or foreign commerce in section 10 of this title. The word "Possession" was inserted following the words "State, Territory" to clarify scope of section and avoid ambiguity as to the meaning of the term "United States."

The punishment provision of section 707 of title 18, U. S. C., 1940 ed., Conservation, was adopted instead of the phrase "not more than \$1,000" contained in section 394 of Title 18, U. S. C., 1940 ed., thus making the violation a petty offense of the same grade as violations of sections 41 and 42 of this title.

The words "upon conviction thereof" were omitted as surplusage because punishment can be imposed only after conviction.

Other changes were made in phraseology to effect the consolidation.

CROSS REFERENCES

Arrests, see section 3054 of this title.

Preservation of game and wild birds; duties and powers of Secretary of the Interior; regulations as to hunting, see section 701 et seq. of Title 16, Conservation.

Search warrants and seizures, see section 3112 of this title.

§ 44. Marking packages or containers.

Whoever ships, transports, carries, brings or conveys in interstate or foreign commerce any package containing wild animals or birds, or the dead bodies or parts thereof, without plainly marking, labeling, or tagging such package with the names and addresses of the shipper and consignee and with an accurate statement showing the contents by number and kind; or

Whoever ships, transports, carries, brings or conveys in interstate commerce, any package containing migratory birds included in any convention to which the United States is a party, without marking, labeling, or tagging such package as prescribed in such convention, or Act of Congress, or regulation thereunder; or

Whoever ships, transports, carries, brings or conveys in interstate commerce any package containing furs, hides, or skins of wild animals without plainly marking, labeling, or tagging such package with the names and addresses of the shipper and consignee—

Shall be fined not more than \$500 or imprisoned not more than six months, or both; and the shipment shall be forfeited. (June 25, 1948, ch. 645, § 1, 62 Stat. 687, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 393, 393a, 394 (Mar. 4, 1909, ch. 321, §§ 243, 244, 35 Stat. 1137, 1138; June 15, 1935, ch. 261, title II, §§ 201, 202, 49 Stat. 381; June 19, 1939, ch. 209, 53 Stat. 840; Reorg. Plan No. II, § 4 (f), 4 F. R. 2731, 53 Stat. 1433).

This section consolidates sections 393, 393a, and 394 of title 18, U. S. C., 1940 ed.

The words "interstate or foreign commerce" were substituted for the enumeration of geographical subdivisions of the United States and foreign countries, in view of the definition of interstate or foreign commerce in section 10 of this title. Other provisions of said section 393a of title 18, U. S. C., 1940 ed., are incorporated in sections 43, 3055 and 3112 of this title.

The words "upon conviction thereof" were omitted as surplusage because punishment can be imposed only after conviction.

The punishment provision was modified by reducing the fine of \$1,000 to \$500 to conform to other sections of this chapter. (See sections 41, 42, and 43 of this title.)

Other changes were made in phraseology to effect the consolidation.

CROSS REFERENCES

Arrests, see section 3054 of this title.
 Preservation of game and wild birds; duties and powers of Secretary of the Interior; regulations as to hunting, see section 701 et seq. of Title 16, Conservation.
 Search warrants and seizures, see section 3112 of this title.

§ 45. Capturing or killing carrier pigeons.

Whoever knowingly traps, captures, shoots, kills, possesses, or detains an Antwerp or homing pigeon, commonly called carrier pigeon, owned by the United States or bearing a band owned and issued by the United States having thereon the letters "U. S. A." or "U. S. N." and a serial number, shall be fined not more than \$100 or imprisoned not more than six months, or both.

The possession or detention of any such pigeon without giving immediate notice by registered mail to the nearest military or naval authorities, shall be prima facie evidence of a violation of this section. (June 25, 1948, ch. 645, § 1, 62 Stat. 688, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 111, 112, and 113 of title 50, U. S. C., 1940 ed., War and National Defense (Apr. 19, 1918, ch. 58, §§ 1, 2, 3, 40 Stat. 533).

Section consolidates sections 111, 112, and 113 of title 50, U. S. C., 1940 ed., War and National Defense.

Words "upon conviction" were deleted as surplusage because punishment can only be imposed after conviction.

Other changes in phraseology also were made.

Chapter 5.—ARSON

Sec.

81. Arson within special maritime and territorial jurisdiction.

§ 81. Arson within special maritime and territorial jurisdiction.

Whoever, within the special maritime and territorial jurisdiction of the United States, willfully and maliciously sets fire to or burns, or attempts to set fire to or burn any building, structure or vessel, any machinery or building materials or supplies, military or naval stores, munitions of war, or any structural aids or appliances for navigation or shipping, shall be fined not more than \$1,000 or imprisoned not more than five years, or both.

If the building be a dwelling or if the life of any person be placed in jeopardy, he shall be fined not more than \$5,000 or imprisoned not more than twenty years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 688, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 464, 465 (Mar. 4, 1909, ch. 321, §§ 285, 286, 35 Stat. 1144).

Sections were consolidated and rewritten both as to form and substance and that part of each section relating to destruction of property by means other than burning constitutes section 1363 of this title.

The words "within the maritime and territorial jurisdiction of the United States" were added to preserve existing limitations of territorial applicability. (See section 7 of this title and note thereunder.)

The phrase "any building, structure, or vessel, any machinery or building materials and supplies, military or naval stores, munitions of war or any structural aids or appliances for navigation or shipping" was substituted for

"any dwelling house, or any store, barn, stable, or other building, parcel of a dwelling house", in section 464 of title 18, U. S. C., 1940 ed., and "any arsenal, armory, magazine, rope walk, ship house, warehouse, blockhouse, or barrack, or any storehouse, barn or stable, not parcel of a dwelling house, or any other building not mentioned in the section last preceding, or any vessel, built, building, or undergoing repair, or any lighthouse, or beacon, or any machinery, timber, cables, rigging, or other materials or appliances for building, repairing or fitting out vessels, or any pile of wood, boards, or other lumber, or any military, naval or victualing stores, arms, or other munitions of war", in section 465 of title 18, U. S. C., 1940 ed. The substituted phrase is a concise and comprehensive description of the things enumerated in both sections.

The punishment provisions are new and are graduated with some regard to the gravity of the offense. It was felt that a possible punishment of 20 years for burning a wood pile or injuring or destroying an outbuilding was disproportionate and not in harmony with recent legislation.

CROSS REFERENCES

Setting fire to vessel of foreign or United States registry, see section 2275 of this title.

Chapter 7.—ASSAULT

Sec.

111. Assaulting, resisting, or impeding certain officers or employees.

112. Assaulting public minister.

113. Assaults within maritime and territorial jurisdiction.

114. Maiming within maritime and territorial jurisdiction.

§ 111. Assaulting, resisting, or impeding certain officers or employees.

Whoever forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person designated in section 1114 of this title while engaged in or on account of the performance of his official duties, shall be fined not more than \$5,000 or imprisoned not more than three years, or both.

Whoever, in the commission of any such acts uses a deadly or dangerous weapon, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 688, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 118, 254 (Mar. 4, 1909, ch. 321, § 62, 35 Stat. 1100; May 18, 1934, ch. 299, § 2, 48 Stat. 731).

This section consolidates sections 118 and 254 with changes in phraseology and substance necessary to effect the consolidation.

Also the words "Bureau of Animal Industry of the Department of Agriculture" appearing in section 118 of title 18, U. S. C., 1940 ed., were inserted in enumeration of Federal officers and employees in section 1114 of this title.

The punishment provision of section 254 of title 18, U. S. C., 1940 ed., was adopted as the latest expression of Congressional intent. This consolidation eliminates a serious incongruity in punishment and application.

CROSS REFERENCES

Assault in committing bank robbery, see section 2113 of this title.

Assaulting mail clerk or custodian, see sections 2114 and 2116 of this title.

§ 112. Assaulting public minister.

Whoever assaults, strikes, wounds, imprisons, or offers violence to the person of an ambassador or other public minister, in violation of the law of nations, shall be fined not more than \$5,000 or imprisoned not more than three years, or both.